THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.P.No.24050 of 2007

Dated:15.11.2007

Between:

Kunche Madhava Rao and others.

..Petitioners.

and

The Government of Andhra Pradesh, rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

..Respondents.

–

–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–
–

–
–
–
–
–
–
–

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

W.P.No.24050 of 2007

ORDER:

This writ petition is filed for a writ of mandamus to declare notification, dated 27.04.2007, issued by respondent No.2 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') whereunder an extent of Ac.0.72 cents of land situated in Sy.No.322/1A/Part of Digamarru Village, Palakol Mandal, West Godavari District, is proposed to be acquired as invalid, illegal and arbitrary.

Since the issue involved in this writ petition at this stage is limited, namely, the alleged lack of opportunity afforded to the petitioners in the enquiry held under Section 5-A of the Act, facts in detail need not be discussed in this order.

Sri A.V.Sesha Sai, learned counsel for the petitioners stated that the petitioners would be satisfied, if the respondents are directed to permit them to file objections and consider them before proceeding further under the provisions of the Act.

The learned Assistant Government Pleader for Land Acquisition submitted that since the petitioners claim to be only agreement holders, their names could not be shown in the notification issued under Section 4(1) of the Act. He, however,

submitted that though the petitioners can be termed as aggrieved persons or persons interested, as they have not filed their objections within time, respondents would not have considered objections.

Undoubtedly, petitioners, who claim to be the agreement holders are persons aggrieved by the notification. They pleaded that as their names did not appear in the notification issued under Section 4(1) of the Act, they were not aware of the proposal for acquisition and that they have not received the notices for enquiry under Section 5-A of the Act. The learned counsel therefore stated that the petitioners could not file their objections within the stipulated time and that when they approached the respondents in the last week of October, 2007 and wanted to file objections, respondent No.3 refused to receive the same on the ground that the time stipulated in the notice issued under Section 5-A of the Act expired.

As the petitioners have reasonable cause in not filing their objections within the stipulated time due to the fact that their names did not appear in the notification issued under Section 4(1) of the Act and they have received any notice in Section 5-A enquiry, I deem it appropriate to dispose of the writ petition without going into the merits of the case with the following terms:

(i) the petitioners are permitted to file their objections within one week from today before respondent No.3;

(ii) respondent No.3 shall receive those objections without raising an objection to the expiry of the time limit;

(iii) if respondent No.2 has not already disposed of the objections, if any received from other aggrieved

persons, respondent No.3 shall consider the objections of the petitioners after affording them an opportunity of personal hearing;

(iv) if the enquiry under Section 5-A of the Act has already been completed and respondent No.2 has already passed an order in that regard, it shall be open to the petitioners to avail further remedies as available to them in law against the acquisition of their lands; and

(v) the petitioners shall not be dispossessed till the conclusion of the enquiry under Section 5-A of the Act.

No costs.

_____

C.V.NAGARJUNA REDDY, J

Dated:15.11.2007

Note:
Issue CC tomorrow.

(Bo)

sj